

**[Advisory Opinion 1995-7A]**

April 11, 1995

TO: [Name1 withheld]  
Division of Regulatory Services  
Department of Housing and Community Development

FROM: Jay L. Cohen, Chairman [signed]  
Ethics Commission

SUBJECT: Request for Advisory Opinion

The Ethics Commission has reviewed your request for guidance regarding the acceptance of a twenty-five dollar gift certificate from a client, [Name2 withheld]. You provided the following information to the Commission:

[Name2 withheld], a county resident, was issued seven civil citations for the conditions of her dwelling. So that she would not have to stand trial for these citations, you arranged an agreement with [Name2 withheld] to move out of her home so that it could be cleaned. After six months of volunteer service cleaning and hauling trash and debris from the home, she reentered the home and agreed to take steps to make the house livable again, having the electricity, gas and water reconnected, etc. You negotiated an agreement for her to remain in the house, subject to monthly inspections. You are responsible for these monthly inspections and have indicated that there are still potential opportunities for additional civil citations and/or condemnation of the house.

As a thanks to you and [Name3 withheld], a co-worker on this case, [Name2 withheld] sent two gift certificates of twenty-five dollars each. Realizing that you would have a conflict of interest if you personally accepted these gifts, you have asked if you could donate them to a specific charitable organization (Hearts and Hands) that has helped [Name2 withheld], thereby avoiding hurting her by rejecting her token of appreciation.

Section 19A-16(c) states:

“A public employee must not knowingly accept a direct or indirect gift from any individual or organization that the public employee knows or reasonably should know:

- (4) has an identifiable economic interest that is different from that of the general public, which the public employee may substantially affect in performing the public employee’s official duties.”

Further, Section 19A-16(f) of the Ethics Law states that:

“A public employee who receives a gift that the public employee must not accept under this section must report the gift to the Commission, if otherwise required to report it, and return the gift to the donor or transfer the gift to the County.”

The Commission, therefore advises you that you may not accept these gifts and donate them to Hearts and Hands. Your only lawful choices are to: (1) return the gift certificates to [Name2 withheld]; or (2) transfer the gift certificates to your department. It would be permitted, however, for you to either: (1) return the gifts with a note explaining your predicaments and suggesting that [Name2 withheld] make the donation herself; or (2) suggest to your department head that the gift certificates might be so donated.

Thank you for bringing this matter to the Commission and don't hesitate to call our office if you have any questions concerning this decision.

BMCN:jw